

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANGELA DAREZZO,

Plaintiff,

Case No. 15CV4939

-against-

CONSENT STIPULATION

27-39 EAST 30 REST CORP. d/b/a CROOKED KNIFE and
NOMAD LAND COMPANY LLC,

Defendants.

WHEREAS, Plaintiff ANGELA DAREZZO ("Plaintiff") filed a complaint in the above-captioned action against Defendant 27-39 EAST 30 REST CORP d/b/a CROOKED KNIFE and (the "Restaurant") and Defendant NOMAD LAND COMPANY LLC ("Landlord": collectively "Defendants"), alleging *inter alia*, certain purported violations of the Americans with Disabilities Act, 42 U.S.C 12181, and related claims arising under New York State Executive Law, the New York City Human Rights Law, and the New York Civil Rights Law, and seeking certain forms of relief thereunder (the "Action"); and

WHEREAS, the claims alleged herein by Plaintiff arise in connection with the property located at 29 East 30th Street, New York, New York (the "Property"); and

WHEREAS, Defendants have denied all allegations that they have violated any laws, statutes, rules, regulations or ordinances; and

WHEREAS, the parties desire to settle all claims alleged herein, without an admission of liability, on the terms and conditions set forth herein; it is therefore

STIPULATED, CONSENTED AND AGREED, that this action shall be settled as follows:

1. Remedial Measures.

Defendants hereby agree to undertake the following remedial actions at the Property, which shall be at the Restaurant's sole cost and expense:

a) Install a permanent ramp and automatic door opener at the entrance to the Restaurant which would allow Plaintiff and other wheelchair bound patrons to enter the Restaurant. Said ramp will be compliant, to the extent possible, with the accessibility requirements set forth in the ADA. The installation of the said ramp shall be completed within six months of the complete execution date of this Stipulation (the "Start Date"). The time period for the installation of said ramp shall be subject to events beyond the control of Defendants, such as delay in obtaining approved building or zoning permits (application for which shall be filed no later than 30 days from the Start Date), failure of the city/county or other government inspectors to make inspections, contractor defaults, work stoppages or slow downs due to labor-related disputes or severe weather conditions (*e.g.*, snow storms and hurricanes), acts of God, *force majeure*, acts of war or terrorism, and the like. In the event of such unforeseen circumstances, it is agreed that upon a showing of diligent efforts to comply with the terms of this Stipulation, the Restaurant may request from Plaintiff's counsel an extension of time to complete the said installation, which consent shall not be unreasonably withheld. Landlord shall have no obligation to make any payment required pursuant to the terms of this agreement, or to incur any expense for any of the required alterations or remediation to remove barriers, and the Restaurant shall have the sole cost and obligation with respect to any payment or alterations or barrier remediation required by the terms of this Agreement. Defendants have entered into an indemnity agreement, annexed hereto as Exhibit A.

b) Remediate the barriers in the interior of the Restaurant to the extent set forth, and in conformity with, the report of Dominic Marinelli of The United Spinal Association, dated January 19, 2016, annexed hereto as Exhibit C and incorporated by reference herein.

2. Settlement Amount.

The Parties agree that monetary compensation shall be paid in resolution of all claims asserted in this action, pursuant to a separate and confidential letter dated as of the date of this Stipulation and signed by counsel for Defendants as authorized representatives of their respective clients (collectively the "Settlement Payment").

3. Release.

In consideration of the Defendants' obligations under this Stipulation, the Plaintiff on behalf of herself, her heirs, executors, beneficiaries, trustees, administrators, representatives, successors and assigns ("Releasor") hereby remises, releases, acquits, satisfies, and discharges Defendants, Stanford Realty Associates, Inc., Dermot Burke and Patrick McKnight, their parents, subsidiaries and affiliates, and their current and/or former officers, directors, members, shareholders, employees, attorneys, trustees, administrators, representatives, successors and assigns ("Releasees") from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, equity, or admiralty, which the Releasor ever had, now has or hereafter can, shall or may have against the Releasees from the beginning of the world up to the date of this Stipulation with respect to all claims made, or which could have been made, in the Action.

4. Withdrawal of Action.

Upon execution of this Stipulation, the Parties shall withdraw with prejudice all claims in this action by submitting a stipulation of dismissal in the form attached hereto as Exhibit B.

5. No Admission of Liability.

Nothing in this Stipulation shall constitute or be deemed to constitute an admission of fault, wrongdoing or liability on the part of Defendants. Defendants acknowledge, without conceding, any infirmity in their defenses, that they are entering into this Stipulation solely in order to settle this dispute and to avoid the further expense and inconvenience of litigation. Plaintiff acknowledges that nothing herein is to be construed as an admission of liability or culpability by either of the Defendants, and acknowledges further that the remedial steps to be taken herein constitute a satisfactory resolution of the access claims alleged herein.

6. Fees and Expenses.

Each of the Parties shall bear their own attorneys' fees and costs incurred in connection with or related to the Action not otherwise encompassed by the terms of this Stipulation provided, however, that in the event of breach of this Stipulation, the non-breaching party shall be entitled to collect any fees or expenses incurred, including reasonable attorneys' fees, by reason of legal action to enforce this Stipulation, or the separate letter agreement relating to compensation.

7. Authority.

Each signatory hereto represents and warrants that he/she has full authority to enter into this Stipulation on behalf of that Party. All references to the Defendants herein shall be deemed

to include their successors and assigns.

8. Governing Law and Jurisdiction.

This Stipulation shall be deemed to be made and entered into in the State of New York, and shall in all respects be interpreted, enforced and governed under the laws of New York. The Parties agree that venue for any litigation brought to enforce this Stipulation shall lie in the United States District Court for the Southern District of New York, or, if that Court refuses to accept jurisdiction, in any court of competent jurisdiction in New York, New York.

9. Interpretation.

The language of all parts of this Stipulation shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Settling Parties. This Stipulation has been negotiated by and between the Parties' respective counsel, and shall not be construed against the "drafter" of the Stipulation.

10. Modification of Stipulation.

This Stipulation may be amended, revoked, changed, or modified only upon a written agreement executed by the Parties. No waiver of any provision of this Stipulation will be valid unless it is in writing and signed by the party against whom such waiver is charged.

11. Entire Agreement.

This Stipulation sets forth the entire agreement between the Parties hereto, and fully supersedes any and all prior agreements or understandings between the Parties hereto pertaining to the subject matter hereof.

12. Signatures in Counterparts.

This Stipulation can be executed in any number of counterparts, each of which shall be taken to be one and the same instrument, for the same effect as if the Parties had the same signature page. A facsimile copy, or Adobe PDF, of any party's signature shall be deemed as legally binding as an original signature.

13. Headings.

The headings of the Sections in this Stipulation have been inserted for convenience or reference only, are not intended to be considered as a part hereof, and shall not modify or restrict any of the terms or provisions hereof.

IN WITNESS WHEREOF, the Parties have hereunder set their hands as of the date set forth below.

Dated: New York, New York
April , 2016


ANGELA DAREZZO

27-39 EAST 30 REST CORP.

NOMAD LAND COMPANY LLC

By: _____

By: _____

Name:

Name:

Title:

Title:

So Ordered:

USDCJ

This Stipulation can be executed in any number of counterparts, each of which shall be taken to be one and the same instrument, for the same effect as if the Parties had the same signature page. A facsimile copy, or Adobe PDF, of any party's signature shall be deemed as legally binding as an original signature.

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IN WITNESS WHEREOF, the Parties have hereunder set their hands as of the date set forth below.

Dated: New York, New York
April , 2016

ANGELA DAREZZO

27-39 EAST 30 REST CORP.

NOMAD LAND COMPANY LLC

By: *Carmen Burke*

By: _____

Name: *DERMOT BURKE*

Name:

Title: *OWNER*

Title:

So Ordered:

USDCJ

This Stipulation can be executed in any number of counterparts, each of which shall be taken to be one and the same instrument, for the same effect as if the Parties had the same signature page. A facsimile copy, or Adobe PDF, of any party's signature shall be deemed as legally binding as an original signature.

13. Headings.

The headings of the Sections in this Stipulation have been inserted for convenience or reference only, are not intended to be considered as a part hereof, and shall not modify or restrict any of the terms or provisions hereof.

IN WITNESS WHEREOF, the Parties have hereunder set their hands as of the date set forth below.

Dated: New York, New York
April , 2016

27-39 EAST 30 REST CORP.

By: _____

Name:

Title:

So Ordered:

USDCJ

ANGELA DAREZZO

NOMAD LAND COMPANY LLC
CURRENTLY KNOWN AS 27-39 EAST 30 REST LLC

By: _____

Name: David Magier

Title: manager

EXHIBIT A

INDEMNITY AGREEMENT

For value received, 27-39 East 30 Rest Corp d/b/a The Crooked Knife, Dermot Burke and Patrick McKnight (collectively "Indemnitors") jointly and severally agree to indemnify and save harmless Nomad Land Company LLC (currently known as to 88-11 170th Street LLC) and Stanford Realty Associates, Inc. (collectively "Indemnitees") their parents, subsidiaries and affiliates, and their current and/or former officers, directors, members, shareholders, employees, attorneys, trustees, administrators, representatives, successors and assigns, from any claim, action, liability, loss, damage or suit, arising from the following: litigation stemming from Angela Darezzo -v- 27-39 East 30 Rest Corp d/b/a Crooked Knife and Nomad Land Company LLC., Case No. 15-CV-4939 (KBF)

In the event of any asserted claim, the Indemnitees shall provide the Indemnitor reasonably timely written notice of the same, and thereafter the Indemnitors shall at their own expense defend protect and save harmless Indemnitees against said claim or any loss or liability thereunder. Notwithstanding the foregoing, Indemnitees, after conferring with Indemnitors, shall have the right, at Indemnitees sole option to choose the legal representation which will represent Indemnitees' interests. Indemnitors will be responsible for and will promptly pay all reasonable legal fees and expenses in the event of any claim, action, liability, loss, damage or suit, against Indemnitees arising from the following: litigation--Angela Darezzo -v- 27-39 East 30 Rest Corp d/b/a Crooked Knife and Nomad Land Company LLC., Case No. 15-CV-4939 (KBF)

Indemnitees shall have full rights to defend, pay or settle said claim on their behalf without notice to the Indemnitors and with full rights to recourse against the Indemnitors for all fees, costs, expenses and payments made or agreed to be paid to discharge said claim.

Upon default, the Indemnitors further agree to pay all reasonable attorneys' fees necessary to enforce this agreement.

This agreement shall be unlimited as to amount or duration.

This agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns and personal representatives.

Signed this 6 day of MAY, 2016.


DERMOT BURKE

Date

PATRICK MCKNIGHT

Date

27-39 EAST 30 REST CORP d/b/a CROOKED KNIFE

By:

Name:

Date

Title:

NOMAD LAND COMPANY LLC (Currently known as 33-71 170 Street LLC)

By:

Name: David Magier

Date

Title: Manager

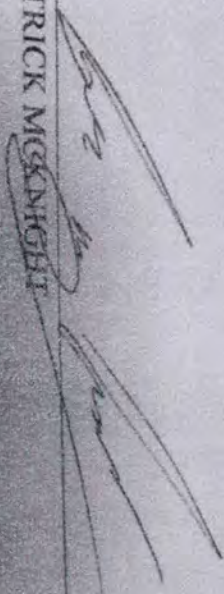
STANFORD REALTY ASSOCIATES, INC.

By:

Name: David Magier

Date

Title: President


PATRICK MCKNIGHT

Date

4/22/16

27-39 EAST 30 WEST CORP dba CROOKED KNIFE

BY
Name
Title

Date

STANFORD REALTY COMPANY, LLC

Name
Title

STANFORD REALTY ASSOCIATES, INC.

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANGELA DAREZZO,

Plaintiff,

Case No. 15CV4939

-against-

Stipulation of Dismissal

27-39 EAST 30 REST CORP d/b/a CROOKED KNIFE and
NOMAD LAND COMPANY LLC,

Defendants.

Plaintiff and Defendants, through their undersigned attorneys, hereby stipulate to the voluntary dismissal of the above-captioned action and all cross claims, with prejudice, and without costs, attorneys' fees, expenses or disbursements to any party as against the other, subject to the terms of the Consent Stipulation executed by the parties. The parties hereby stipulate and agree that no party hereto is an infant or incompetent person for whom a committee has been appointed.

Dated: May 11, 2016

The Law Office of Delmas A. Costin, Jr.

Rosengarten & Weiss

By: /s/
Delmas A. Costin, Jr., Esq.
177 E. 161st Street
Bronx, NY 10451
Attorneys for Defendants

By: /s/
Donald J. Weiss, Esq.
747 Third Avenue
New York, NY 10017
Attorneys for Plaintiff

So Ordered:

USDCJ

EXHIBIT C

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ATTORNEY-CLIENT COMMUNICATION & ATTORNEY WORK PRODUCT



**United Spinal
Association**

Accessibility Review
The Crooked Knife
29 East 30th Street
New York, NY 10016
Date of Inspections:
12-16-15, 1-19-16

Allegation Argela Darezzo v. 27-39 East 30 th Rest Corp. d/b/a Crooked Knife and Nomad Land Company LLC 1. The 6 inch step at the door creates a route which does not allow the Plaintiff to enter the bar and/or restaurant, as others are invited to do.	United Spinal Association December 16, 2015 Inspection January 19, 2016 Inspection In response to plaintiff's request that a permanent ramp be installed I revisited and re-measured the exterior on January 19, 2016.	Proposed Settlement	Applicable Citation 2010 ADA Standards
	A permanent ramp is not required for the following reasons: 1. It would be <i>technically infeasible</i> to install ramp to right of entrance as 8 foot minimum ramp length in addition to 5 foot landing depth at entry door required would have to be installed <i>over</i> metal sidewalk access doors	Temporary ramp will be provided to overcome 8 inch elevation difference at front entrance to restaurant	§405, 2010 ADA Standards Appendix to § 36.304(d)(e) <i>Portable ramps.</i>



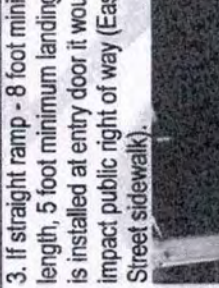
PRIVILEGED & CONFIDENTIAL

ATTORNEY-CLIENT COMMUNICATION & ATTORNEY WORK PRODUCT

Allegation Angela Darezzo v. 27-39 East 30 Rest Corp. d/b/a Crooked Knife and Nomad Land Company LLC	United Spinal Association December 16, 2015 Inspection January 19, 2016 Inspection	Proposed Settlement	Applicable Citation 2010 ADA Standards
	 <p>§ 36.304(d) (e) <i>Portable ramps.</i> Portable ramps should be used to comply with this section only when installation of a permanent ramp is not readily achievable. In order to avoid any significant risk to the health or safety of individuals with disabilities or others in using portable ramps, due consideration shall be given to safety features such as nonslip surfaces, railings, anchoring, and strength of materials.</p>		
	<p>2. If 8 foot minimum ramp length in addition to 5 foot landing depth at entry door required is installed to left of entrance ramp it would eliminate seasonal sidewalk dining. <i>Readily Achievable Barrier Removal</i> is not required if result will be loss of selling or serving space</p>	Temporary ramp will be provided to overcome 8 inch elevation difference at front entrance to restaurant	§405, 2010 ADA Standards Appendix to § 36.304(d)(e) <i>Portable ramps.</i>

ATTORNEY-CLIENT COMMUNICATION & ATTORNEY WORK PRODUCT

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Allegation Angela Darezzo v. 27-39 East 30 Rest Corp. d/b/a Crooked Knife and Nomad Land Company LLC	United Spinal Association December 16, 2015 Inspection January 19, 2016 Inspection	Proposed Settlement	Applicable Citation 2010 ADA Standards
	 <p>§ 36.304(d) (f) <i>Selling or serving space.</i> The rearrangement of temporary or movable structures, such as furniture, equipment, and display racks is not readily achievable to the extent that it results in a significant loss of selling or serving space.</p> <p>3. If straight ramp - 8 foot minimum length, 5 foot minimum landing depth is installed at entry door it would impact public right of way (East 30th Street sidewalk).</p>	 <p>Temporary ramp will be provided to overcome 8 inch elevation difference at front entrance to restaurant</p>	<p>§405, 2010 ADA Standards Appendix to § 36.304(d)(e) <i>Portable ramps.</i></p>
	 <p>§ 36.304(d)(3) No measure shall be taken, however, that poses a significant risk to the health or safety of individuals with disabilities or others.</p>		


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ATTORNEY-CLIENT COMMUNICATION & ATTORNEY WORK PRODUCT

Allegation	United Spinal Association December 16, 2015 Inspection January 19, 2016 Inspection	Proposed Settlement	Applicable Citation
<p>Angela Darezzo v. 27-39 East 30 Rest Corp. d/b/a Crooked Knife and Nomad Land Company LLC</p> <p>II. A person seated must have room to sit while pulling the outward swinging door open.</p> <p>III. The door handle on the outside door and on the inside door must be replaced with a lever type which does not require twisting or squeezing.</p> <p>IV. The narrow space between the outside door and vestibule door does not allow space for the Plaintiff to move thru the first door and then pull the inside door open.</p>		<p>Readily Achievable Barriers will be removed to comply to the <i>maximum extent feasible</i> as permitted and as follows:</p>	<p>§36.304, 2010 ADA Standards</p>
		<p>Inaccessible door hardware will be replaced with accessible exterior, interior vestibule doors.</p>	<p>§404.2.7, 2010 ADA Standards</p>
		<p>Inaccessible thresholds will be replaced with accessible thresholds on exterior and interior vestibule doors</p>	<p>§404.3.3, 2010 ADA Standards</p>
		<p>Buzzer/bell will be installed on exterior façade of building (indicating that people with disabilities can <i>Press for Ramp</i>) to overcome 8 inch elevation difference at</p>	



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ATTORNEY-CLIENT COMMUNICATION & ATTORNEY WORK PRODUCT

Allegation Angela Darezzo v. 27-39 East 30 Rest Corp. d/b/a Crooked Knife and Nomad Land Company LLC	United Spinal Association December 16, 2015 Inspection January 19, 2016 Inspection	Proposed Settlement	Applicable Citation 2010 ADA Standards
V. Proper clear floor space and a clear 36 inch path of travel need to be provided in the bar area.	Inaccurate. An accessible route has been provided between bar, bar stools and proximate tables in bar area 	entry and lack of 18 inch minimum pull-side clearance	
VI. Seating has to offer the knee and toe clearance required by the 2010 Standards.	Inaccurate \$5.2, 1991 ADA Standards permitted accessible tables proximate to the bar There are 19 total tables Two (2) are accessible complying with applicable accessibility requirements (5% or 1 of the total tables provided are required to be accessible)		


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ATTORNEY-CLIENT COMMUNICATION & ATTORNEY WORK PRODUCT

Allegation Angela Darezzi v. 27-39 East 30 West Corp. d/b/a Crooked Knife and Normal Land Company LLC	United Spinal Association December 16, 2015 Inspection January 19, 2016 Inspection	Proposed Settlement	Applicable Citation 2010 ADA Standards
			
(vi) Proper clear floor space and a clear 36 inch path of travel need to be provided in the bar area.	<p>Inaccurate An accessible route has been provided between bar, bar stools and proximate tables in bar area</p> 		
(vii) 5% of the total seating and standing spaces are required to be accessible and dispersed throughout all dining areas.	<p>Inaccurate There are 19 total tables in the dining area. Two (2) are accessible complying with applicable accessibility requirements (5% or 1 of the total tables provided are required to be accessible)</p>		

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ATTORNEY-CLIENT COMMUNICATION & ATTORNEY WORK PRODUCT

Allegation Angela Darezzo v. 27-39 East 30 Rest Corp. d/b/a Crooked Knife and Nomad Land Company LLC	United Spinal Association December 16, 2015 Inspection January 19, 2016 Inspection	Proposed Settlement	Applicable Citation 2010 ADA Standards
			
(viii) Each "different" area is required to have seating available for the disabled. (ix) As our client likes to meet groups of friends in this area and often it is a "party", there should be the same options to gather together and eat and drink as other groups are provided.	Inaccurate See responses to vii, viii above	One (1) long table that already provides accessible height will be modified to provide toe clearance proximate to bar	
Toilet Rooms (x) There is no toilet available which has the necessary turning space and clear floor space. (xi) Either an accessible unisex room or one men's and one women's bathroom will need to be provided. (xii) The door to the accessible stall must be over		As water closets and lavatories were replaced in both Men's & Women's toilet rooms, these fixtures will comply with the 2010 ADA Standards	\$604.6, 2010 ADA Standards \$604.4.5, 2010 ADA Standards \$606, 2010 ADA Standards

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ATTORNEY-CLIENT COMMUNICATION & ATTORNEY WORK PRODUCT

Allegation	United Spinal Association December 16, 2015 Inspection January 19, 2016 Inspection	Proposed Settlement	Applicable Citation 2010 ADA Standards
Angela Darezzo v. 27-39 East 30 Rest Corp. d/b/a Crooked Knife and Noman Land Company LLC. 32 inches wide and not obstruct Plaintiff from closing the door once she enters the stall			
		In addition to replacing water closets and lavatories, <i>Readily Achievable</i> Barriers will be modified to comply to the <i>maximum extent feasible</i> as permitted and as follows:	§36.304, 2010 ADA Standards
		Accessible thresholds will be provided in both Men's, Women's toilet rooms.	§404.3.3, 2010 ADA Standards
		Accessible door hardware will be provided in both Men's, Women's toilet rooms.	§604.8.1.2, 2010 ADA Standards
		Mirrors will be lowered to provide 40 inch maximum reflecting surface or wall-hung mirror will be provided in both Men's, Women's toilet rooms	§603.3, 2010 ADA Standards
		Operable part of paper towel dispensers will be provided within accessible reach ranges in both Men's, Women's toilet rooms	§309, 2010 ADA Standards
		Operable part of soap dispensers will be provided within accessible reach ranges in both Men's, Women's toilet rooms	§309, 2010 ADA Standards
		Width of compartment doors will be modified to provide 32 inch minimum clear width	§604.8.1.2, 2010 ADA Standards
		Grab bars will be installed to comply to the <i>maximum extent feasible</i> around water closets in toilet compartments in both Men's Women's toilet rooms	§607.4, 2010 ADA Standards